

Appl. No. : 10/726,256
Filed : December 2, 2003

REMARKS

Claims 33-41, 43-46 and 74-86 remain pending in the present application, Claims 33, 36, 38, 45, 74, 79 and 83 having been amended. The claims set forth above include marking to show the changes made by way of the present amendment, deletions being in ~~strikeout~~ and additions being underlined.

In response to the Office Action notified July 23, 2008, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

Allowed Subject Matter

Applicants gratefully acknowledge the Examiner's notes that Claims 36, 38-41 and 45 are allowed.

Objection of Claims 36 and 45 and Amendments to Claims 38 and 79

Claims 36 and 45 stand objected to because of informalities. In reply, Applicants amended Claims 36 and 45 to make these claims more easily readable and not narrow or affect the scope of these claims. Additionally, although no objections have been made to these claims, Applicants have amended Claims 38 and 79 to make these claims more easily readable, but not to narrow or affect the scope of these claims. No new matter has been added in the amendments to Claims 36, 38, 45 and 79.

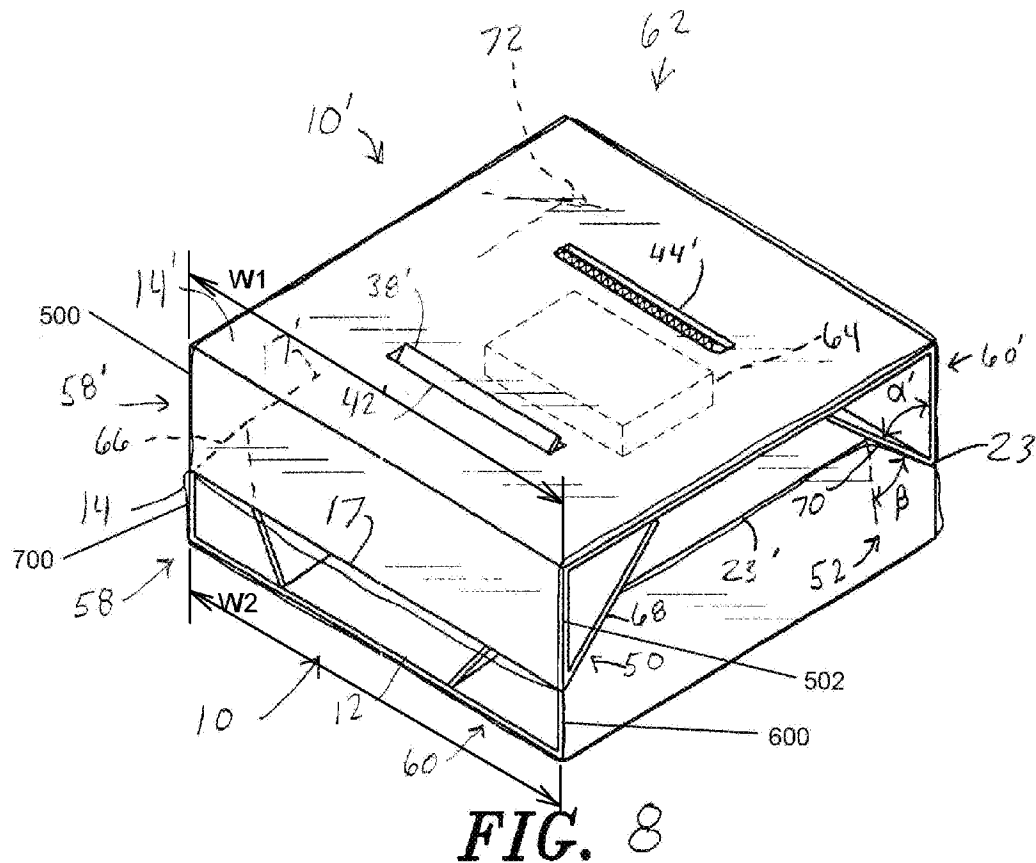
Discussion of Rejection under 35 U.S.C. §112

Claims 33-35, 37, 43-44 and 46 stand rejected under 35 U.S.C. §112 first paragraph, as failing to comply with the written description requirement. In particular, the Office Action states that the limitations added to the last 5 lines of Claim 33 are without support in the Disclosure as filed, and thus constitute new matter. Applicants respectfully traverse the present rejection. However, in order to expedite prosecution of the present application, Applicants have amended these claims.

In particular, Claim 33 now recites "wherein a distance between the side edges of the

third wall structure defines a width of the second frame, wherein a distance between one of the side edges of the first wall structure and one of the side edges of the second wall structure defines a width of the first frame, wherein the width of the first frame is substantially same with the width of second frame in nesting engagement.”

Applicants respectfully direct the Examiner to Figure 8 (reproduced below with annotations). In the non-limiting embodiment illustrated in Figure 8, a distance between side edges 500 and 502 of the peripherally extending structure 58' defines a width W1 of a subassembly 10'. A distance between side edge 600 of the peripherally extending structure 58 and side edge 700 of the peripherally extending structure 60 defines a width W2 of a subassembly 10. As can be seen in Figure 8 below, the width W1 of the subassembly 10' is substantially same with the width W2 of the subassembly 10.



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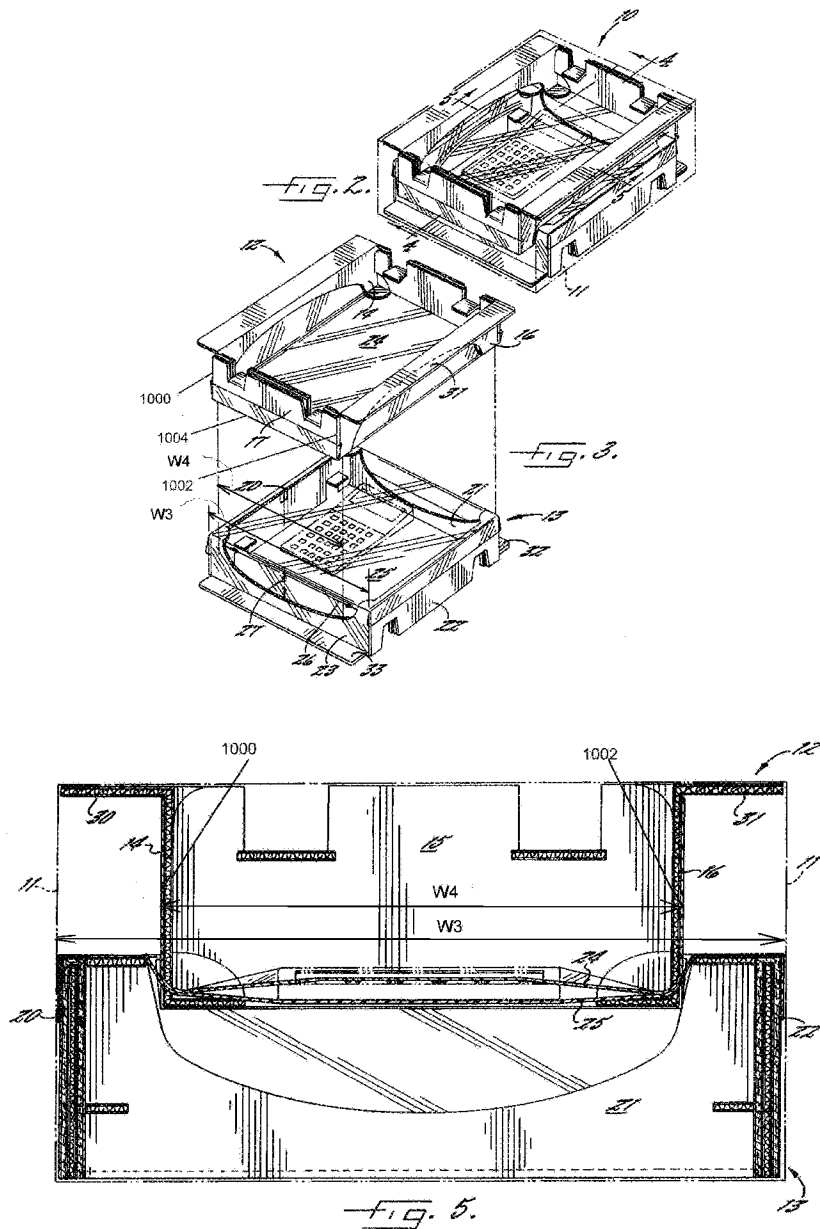
As discussed above, the recitations of Claim 33 are fully supported by Figure 8 of the application as originally filed. Thus, no new matter is added by the amendments to Claim 33. Applicants respectfully request withdrawal of this rejection.

Claims 33-35, 37, 43-44, 46 and 74-86 Are Patentable over Ridgeway

Claims 33-35, 37, 43-44, 46 and 74-86 stand rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over US Patent No. 5,388,701 issued to Ridgeway. Applicants respectfully traverse the present rejection. However, in order to expedite prosecution of the present application, Applicants have amended the claims as set forth above. Applicants expressly reserve the right to further prosecute the original versions of the claims through continuation practice.

Ridgeway

Ridgeway teaches a suspension package having two suspension frames 12 and 13. The frames 12 and 13 have flexible plastic films 24 and 25, respectively. The frame 12 has four side panels 14, 15, 16 and 17. Each of two opposite side panels 14 and 16 has an arch. The frame 13 has four side panels 20, 21, 22 and 23. Each of two opposite side panels 21 and 23 has an arch. When the frames 12 and 13 are contained in a box, the arched side panels 14 and 16 of the frame 12 are positioned perpendicularly to the arched side panels 21 and 23 of the frame 13. For the Examiner's convenience, Figures 2, 3 and 5 are reproduced below with additional reference numerals.



The frames 12 and 13 of Ridgeway, however, are sized such that a width W3 of an arched panel 21 (or a distance between the side panels 20 and 22) is much greater than a width W4 of the side panel 15 (or a distance between the side panels 14 and 16) in assembled configuration. Thus, the side panels 20 and 22 located beyond side edges 1000 and 1002 of the side panel 15. See Figure 5 below.

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In page 4, paragraph 7, the Office Action notes that at least column 4, paragraph 3 of Ridgeway indicates that while frames can have different dimensions, they do not have to. In column 4, paragraph 3 of Ridgeway, as an example of frames having different dimensions, Ridgeway states that in FIG. 3, frame 12 has a more rectangular profile while frame 13 has a more square profile. However, as can be seen from Figures 3 and 5, the side panels 14 and 16 should be still inserted in the arched portion of the arched side 21 in spite of any size-modification of the frames of Ridgeway. Thus, the width W4 of the side panel 15 should be smaller than the width W3 of the arched panel 21, and cannot be same with the width W3 of the arched panel 21.

Claim 33

In contrast with Ridgeway, Claim 33 now recites, among other recitation, “wherein a distance between the side edges of the third wall structure defines a width of the second frame, wherein a distance between one of the side edges of the first wall structure and one of the side edges of the second wall structure defines a width of the first frame, wherein the width of the first frame is substantially same with the width of second frame in nesting engagement.”

As discussed above, the frames 12 and 13 of Ridgeway, however, are sized such that a width between the side panels 20 and 22 is much greater than a width of side panel 15 when assembled. *See* Figure 5 of Ridgeway above.

As such, Ridgeway fails to teach or suggest the above features among other features of Claim 33. Therefore, Ridgeway does not teach or suggest every feature of Claim 33, and its dependent Claims 34-35, 37, 43-44 and 46. There is no additional reference or non-reference prior art to remedy the deficiencies of Ridgeway. Therefore, no *prima facie* case of anticipation or obviousness has been established. Applicants respectfully request the withdrawal of the rejection to Claim 33 and its dependent Claims 34-35, 37, 43-44 and 46.

Claim 74

Claim 74 recites, among other recitation, “wherein a distance between the side edges of the third wall structure defines a width of the second frame, wherein a distance between one of the side edges of the first wall structure and one of the side edges of the second wall structure defines a width of the first frame, wherein the width of the first frame is substantially same

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with the width of second frame in nesting engagement.”

As discussed in the discussion of Claim 33, Ridgeway fails to teach or suggest the above features among other features of Claim 74. Therefore, Ridgeway does not teach or suggest every feature of Claim 74, and its dependent Claims 75-86. There is no additional reference or non-reference prior art to remedy the deficiencies of Ridgeway. Therefore, no *prima facie* case of anticipation or obviousness has been established. Applicants respectfully request the withdrawal of the rejection to Claim 74 and its dependent Claims 75-86.

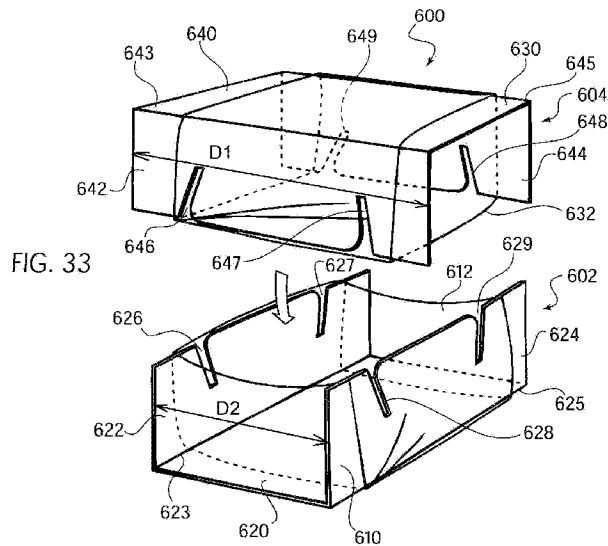
Claims 33-35, 37, 43-44, 46 and 74-86 Are Patentable over Smith

Claims 33-35, 37, 43-44, 46 and 74-86 stand rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,311,843 issued to Smith. Applicants respectfully traverse the present rejection and submit that Smith is in fact not prior art under 35 U.S.C. §§ 102 (b or e) nor 103(a) with respect to Claims 33-35, 37, 43-44, 46 and 74-86. However, in order to expedite the prosecution, Applicants have amended the claims as set forth above. Applicants expressly reserve the right to further prosecute the original versions of the claims through continuation practice.

Claim 33

As discussed above, Claim 33 recites, among other recitation, “wherein a distance between the side edges of the third wall structure defines a width of the second frame, wherein a distance between one of the side edges of the first wall structure and one of the side edges of the second wall structure defines a width of the first frame, wherein the width of the first frame is substantially same with the width of second frame in nesting engagement.”

In contrast, Smith discloses only the configuration in Figures 33-35 that a distance D1 between side edges of a panel 642 or 644 is larger than a distance D2 between side panels 622 and 624. For the Examiner’s convenience, Figures 2, 3 and 5 are reproduced below with additional reference numerals.



As such, Smith fails to teach or suggest such features among other features of Claim 33. Therefore, Smith does not teach or suggest all the features of Claim 33, and its dependent Claims 34, 35, 37, 43, 44 and 46. There is no additional reference or non-reference prior art to remedy the deficiencies of Smith. Therefore, no *prima facie* case of anticipation or obviousness has been established. Applicants respectfully request the withdrawal of the rejection to Claim 33 and its dependent Claims 34, 35, 37, 43, 44 and 46.

Claim 74

Claim 74 recites, among other recitation, “wherein the first wall structure comprises two side edges generally perpendicular to the first free edge, wherein the second wall structure comprises two side edges generally perpendicular to the second free edge, wherein the third wall structure comprises two side edges generally perpendicular to the third free edge, wherein a distance between the side edges of the third wall structure defines a width of the second frame, wherein a distance between one of the side edges of the first wall structure and one of the side edges of the second wall structure defines a width of the first frame, wherein the width of the first frame is substantially same with the width of second frame in nesting engagement.”

As discussed in the discussion of Claim 33, Smith fails to teach or suggest the above features among other features of Claim 74. Therefore, Smith does not teach or suggest every feature of Claim 74, and its dependent Claims 75-86. There is no additional reference or non-reference prior art to remedy the deficiencies of Smith. Therefore, no *prima facie* case of

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anticipation or obviousness has been established. Applicants respectfully request the withdrawal of the rejection to Claim 74 and its dependent Claims 75-86.

Smith Does Not Qualify as a Prior Art for Rejecting Claims 33 and 74

Applicants respectfully submit that Smith is in fact not prior art under 35 U.S.C. §§ 102 (b or e) nor 103(a) with respect to pending Claims 33-35, 37, 43-44, 46 and 74-86.

Firstly, Applicants wish to point out that Claim 33, as noted above, Clearly and non-obviously defines over the smith reference. Thus, the issue of whether or not the Smith reference qualifies as prior art is moot.

However, if the Examiner disagrees with the Applicants regarding outstanding rejection of the claims as being obvious over Smith, Applicants believe that the Smith reference does not qualify as prior art.

As noted in the previously submitted Declaration, the lower drawing of Figure 2 of the May 28 letter is shown in a state where one of the frame members is rotated 90 degrees (about the vertical axis) from the correct position during use. In the Supplemental Declaration submitted on December 23, 2008, Declarants clarified that although the lower drawing of Figure 2 showed a certain orientation, the inventors' concept was to have the lower frame member rotated 90 degrees and with the article packaged between the two frame members. Further, the Declarants clarify that the prototype that they created before October 1, 1999 included all of the features of Figure 8 of the present Application. Applicants thus submit that the Declarants' statements and Figure 2 of the May 28, 1999 letter together sufficiently corroborates their statements, submitted under the penalty of perjury, that they created a prototype including all of the features of Figure 8 of the present Application.

As such, Applicants submit that they reduced to practice an embodiment of Claims 33 and 74 prior to the effective date of the Smith reference and thus Smith does not qualify as a prior art under 35 U.S.C. § 102(e). Because Smith does not qualify as a prior art under 35 U.S.C. § 102, it also cannot qualify as prior art under 35 U.S.C. § 103(a).

Claims 74-86 Are Patentable over Jones

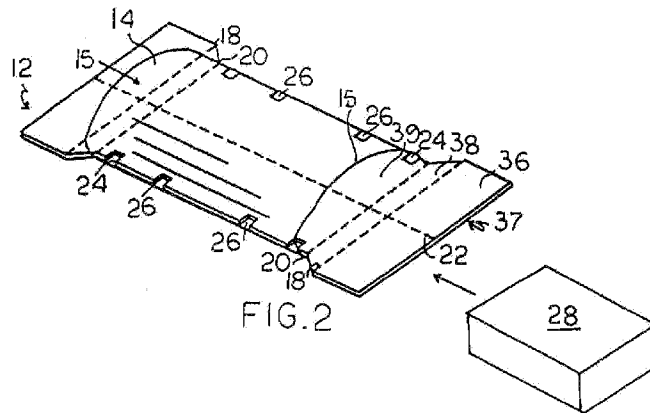
Claims 74-86 stand rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,676,245 issued

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to Jones. Applicants respectfully traverse the present rejection. However, in order to expedite the prosecution, Applicants have amended the claims as set forth above. Applicants expressly reserve the right to further prosecute the original versions of the claims through continuation practice.

Claim 74 recites, among other recitations, “wherein a distance between the side edges of the third wall structure defines a width of the second frame, wherein a distance between one of the side edges of the first wall structure and one of the side edges of the second wall structure defines a width of the first frame, wherein the width of the first frame is substantially same with the width of second frame in nesting engagement.”

In contrast, Jones simply discloses a packaging kit having a base sheet 12 and a plastic retaining sheet 14 comprised of a tube material. As shown in Figure 2 of Jones which is reproduced below, the base sheet 12 is inserted within the tube material 14.



Jones fails to teach or suggest the above features among other features of Claim 74. Therefore, Jones does not teach or suggest every feature of Claim 74, and its dependent Claims 75-86. There is no additional reference or non-reference prior art to remedy the deficiencies of Jones. Therefore, no *prima facie* case of anticipation or obviousness has been established. Applicants respectfully request the withdrawal of the rejection to Claim 74 and its dependent Claims 75-86.

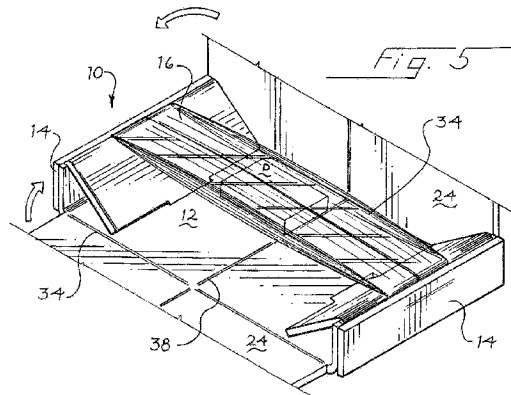
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Claims 74-86 Are Patentable over Lofgren

Claims 74-86 stand rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,669,506 issued to Lofgren et al. Applicants respectfully traverse the present rejection. However, in order to expedite the prosecution, Applicants have amended the claims as set forth above. Applicants expressly reserve the right to further prosecute the original versions of the claims through continuation practice.

As discussed above, Claim 74 recites, among other recitation, “wherein a distance between the side edges of the third wall structure defines a width of the second frame, wherein a distance between one of the side edges of the first wall structure and one of the side edges of the second wall structure defines a width of the first frame, wherein the width of the first frame is substantially same with the width of second frame in nesting engagement.”

In contrast, Lofgren simply discloses a suspension package having a base 12 and end panels 24. A hammock 16 supporting an article extends between the end panels 24, as shown in Figure 2 of Lofgren which is reproduced below.



Lofgren fails to teach or suggest the above features among other features of Claim 74. Therefore, Lofgren does not teach or suggest every feature of Claim 74, and its dependent Claims 75-86. There is no additional reference or non-reference prior art to remedy the deficiencies of Lofgren. Therefore, no *prima facie* case of anticipation or obviousness has been established. Applicants respectfully request the withdrawal of the rejection to Claim 74 and its dependent Claims 75-86.

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CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Respectfully submitted,

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